

REMARKS

Claim Rejections under 35 U.S.C. § 102(e)

Within the Office Action, Claims 1, 3, 5-8, and 11-13 were rejected under 35 U.S.C. §102(e) as being anticipated by United States Patent Publication No.: 6,859,832 to Gecht et al. (hereinafter referred to as "Gecht").

Pursuant to MPEP § 706.02(b), "[a] rejection based on 35 U.S.C. 102(e) can be overcome by ... (C) [f]iling an affidavit or declaration under 35 U.S.C. 1.132 showing that the reference invention is not by 'another,'" pursuant to MPEP § 715.01(a).

MPEP § 715.01(a) further explains that "[w]hen subject matter, disclosed but not claimed in a patent ... filed jointly by S and another, is claimed in a later application filed by S, the joint patent ... is a valid reference [under 35 U.S.C. 102(e)] ***unless overcome by ... an unequivocal declaration under 37 CFR 1.132*** by S that he/she conceived or invented the subject matter disclosed in the patent ... and relied on in the rejection." (Emphasis added).

The Applicant respectfully traverses this rejection. Gecht was invented jointly by Mr. Ofer Tenenbaum and others. Additionally, Gecht does not claim the subject matter of the instant application. Finally, Mr. Ofer Tenenbaum conceived of and otherwise invented the subject matter disclosed in Gecht. Accordingly, the subject matter of the pending claims was not invented "by another" as required by 35 U.S.C. § 102(e).

Applicants submit an unequivocal declaration pursuant to 37 CFR § 1.132 from Mr. Ofer Tenenbaum, declaring that the claims pending in the instant application and the claims issued in Gecht were both invented by Mr. Ofer Tenenbaum.

For this reason, the Applicants respectfully request that the rejections based on 35 U.S.C. § 102(e) be withdrawn. Accordingly, Claims 1, 3, 5-8, and 11-13 remain pending and are all in condition for allowance.

Conclusion

As set forth above, all of the rejections as been overcome. Therefore claims 1, 3, 5-8 and 11-13 are in condition for allowance and an early issuance of a Notice of Allowance would be appreciated.

Should the Examiner have any questions regarding the application, he is respectfully urged to contact Applicant's attorney at (650) 474-8400.

Respectfully submitted,



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